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FISCAL IMPACT STATEMENT

LS 6866

BILL NUMBER: SB 409

NOTE PREPARED: Jan 29, 2004

BILL AMENDED:

SUBJECT: Public Defense Fund.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill specifies the length of time for which the Public Defender Commission suspends reimbursing the counties when the Public Defense Fund would be reduced below \$250,000 if reimbursements were made.

Effective Date: July 1, 2004.

Explanation of State Expenditures: The bill would extend the period for which reimbursements to counties would be suspended by the Public Defender Commission, allowing the Public Defense Fund to receive a second appropriation from the state General Fund. Under existing conditions, this change would increase the reimbursement a county with a quarterly certified request for reimbursement would be paid.

Under current law, if the Public Defense Fund would be reduced below \$250,000 by reimbursing county certified expenditures, the Public Defense Commission is required to wait for the first transfer of state General Fund monies before reimbursing counties. Subsequently, reimbursement may be prorated to avoid reaching a balance below \$250,000.

Currently, the Public Defense Fund has received requests totaling \$3.8 M, and the balance in the Fund is \$1.5 M. The Public Defense Commission must suspend payments for noncapital cases and wait for a \$1.2 M state General Fund transfer which will occur on December 31. At that point, the Fund will have \$2.7 M, with \$2.45 M, or only 64% of the total requested amount, available to reimburse requests. Under current statute, payments would be prorated.

However, under the bill, the Public Defense Commission would wait for a second transfer of \$2.3 M from the state General Fund, which will occur on January 1. This transfer would result in a fund balance of \$5 M,

with \$4.75 M available for reimbursement covering 100% of the counties' requests and eliminating the need to prorate payments. Additionally, there would be a balance remaining in the Public Defense Fund of \$1.2 M.

Background: The Public Defense Fund provides reimbursement of 50% of a county's certified expenditures for indigent defense services in capital cases and 40% of the certified expenditures for noncapital cases. Noncapital reimbursements may be suspended if the balance of the Fund would be reduced below \$250,000, and reimbursements may be prorated.

The Public Defense Fund receives two sources of funding from the state General Fund, as seen below.

Source	Amount (per transfer)	Timing
IC 33-19-7-5(c) Transfer	\$1.2 M	June 30 and December 31
FY 2004-2005 Biennial Budget	\$2.3 M	January 1 and July 1

Counties Affected: There are 45 counties with requests currently pending, which include: Adams, Benton, Blackford, Carroll, Clark, Decatur, Fayette, Floyd, Fountain, Fulton, Greene, Hancock, Henry, Jasper, Jay, Jennings, Knox, Kosciusko, Lake, LaPorte, Madison, Marion, Miami, Monroe, Montgomery, Noble, Ohio, Orange, Parke, Perry, Pulaski, Rush, Scott, Shelby, Spencer, Steuben, Sullivan, Switzerland, Vanderburg, Vermillion, Vigo, Warren, Washington, White, and Whitley.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: See *Explanation of State Expenditures*.

State Agencies Affected: Public Defender Commission.

Local Agencies Affected: Counties receiving Public Defense Fund reimbursements.

Information Sources: IC 33-19-7-5 and HEA 1001–2003.

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